



**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

539 THEODORE LEVIN UNITED STATES COURTHOUSE  
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January 12, 2022

Connie M. Cessante  
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500 Woodward Avenue, Suite 3500  
Detroit, Michigan 48226

In Re: *Marvin Lemieux v. Exxon Mobil Corporation*, Case No. 17-cv-12339

Dear Counsel,

It has been brought to the Court's attention while Judge Avern Cohn presided over the above captioned case, he owned a small amount of stock in Exxon Mobil Corp. His ownership of stock neither affected nor impacted his decisions in the case, but his stock ownership would have required recusal under the Code of Conduct for United States Judges, and thus, Chief Judge Hood directed that I notify the parties of the conflict.

Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned even though that may occur after entry of a decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplates disqualification after a Court of Appeals oral argument, the Committee explained "[s]imilar consideration would apply when a judgment was entered in a district court by a judge and it is later learned that the judge was disqualified."

Letter Re Case No. 17-cv-12339  
January 12, 2022

Page 2

With Advisory Opinion 71 in mind, you are invited to respond to the Court's disclosure of a conflict in this case. Should you wish to respond, please submit your response on or before February 4, 2022. Any response will be considered by another judge of this court.

Sincerely,

A handwritten signature in black ink, appearing to read 'KDE', with a stylized flourish at the end.

Kinikia D. Essix  
Court Administrator